

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
SITE VISIT – 55 Main Street
and TOWN OFFICE
NEW HAMPTON, NH 03256**

March 15, 2017

- MEMBERS PRESENT** Regular members: Mr. Tierney, Ms. Karnis, Mrs. Erler, and Mr. Orvis, and alternate members Mr. Smith and Mr. Hofling.
- OTHERS PRESENT** Administrative Assistant Mrs. Vose
- CALL TO ORDER** Mr. Tierney called the meeting to order at 5:31 PM at 55 Main Street.
- SITE VISIT**
55 Main Street Applicant Jeremy Hiltz was present as were Tanya Hiltz, surveyor Kent Brown and abutters Kent & Karen Bicknell.
- Mr. Brown showed the board where the approximate property boundaries were. Mr. Hiltz explained how the driveway for parking would be laid out for parking, to accommodate 2 cars deep on each side of the structure. He explained there would be a poured-in-place retaining wall for the driveways. He said he spoke with the Bicknells about ways to make the wall more pleasing to look at as it will be seen by them and the possibility of planting some shrubs. Mr. Orvis asked the Bicknells if they had any input. Mr. Bicknell said it was an improvement but had expressed concern on the look of the retaining wall but said he trusted that Mr. Hiltz would make it aesthetically pleasing. Mrs. Erler confirmed with Mr. Hiltz that he would provide plantings to screen the wall. Ms. Karnis confirmed the approximate location where the driveway on the east side would be and asked how high the wall would be, from the ground below. As it is 4' Mr. Hiltz said some type of safety fence would be installed.
- RECESS** At 5:45pm Ms. Karnis made a motion, seconded by Mrs. Erler, to recess the meeting and travel to the Town Office upstairs meeting room to continue the hearing. Vote was unanimous.
- RECONVENE** At 5:53 pm, Mr. Tierney reconvened the meeting. He noted that everyone that was at the site visit was present with the exception of Mr. & Mrs. Bicknell.
- PUBLIC HEARING**
Jeremy Hiltz Rev. Trust, 55 Main Street, Tax Map R-3, Lot 22B, for two Special Exceptions & two Variances. Special Exception #1-Article IV, Section F(2)i; Special Mr. Brown submitted a survey of the property which included locations and measurements of the driveways & parking spaces.
- Relative to the drawing showing existing conditions, Mr. Tierney confirmed with Mr. Brown that some lines on the property to the east of Mr. Hiltz's is indicating where the abutter's house is located.

Exception #2-Article VI, Section A(2); Variance #1-Article IV, Section F(3), Variance #2- Article IV, Section F(8), of the New Hampton Zoning Ordinance.

Mr. Tierney read a letter to the board into the record, from Fire Chief Drake dated 3/15/17, making his recommendations on the proposal relative to life safety requirements.

Mr. Orvis asked if there would be some kind of fencing where the property slopes off more severely in the rear and Mr. Hiltz said there would be. Mr. Tierney asked if there was a way for someone to exit from the walkout basement and make their way to the street and Mr. Hiltz said he would have steps built into the retaining wall. In reviewing the floor plan on the 2nd story Mr. Hiltz said he would add an additional window to each of the rear bedrooms, allowing someone to exit towards the parking areas.

Mr. Tierney appointed Mr. Hofling to vote in place of Mr. Frazier.

Ms. Karnis asked where the end of the parking spaces were in relation to the edge of the property and Mr. Hiltz said it began at the property line, being fully contained on the property. Ms. Karnis asked what the percentage was of lot development versus lot size and it was calculated at 39.6%.

Mr. Tierney closed the hearing to enter into deliberations, reviewing criteria for each Special Exception and Variance request.

Relative to the Special Exception request under Article IV, Section F.2.i to replace a single family dwelling with a 2-family dwelling:

The specific site is an appropriate location for such use: The applicant writes *“the proposed use as a 2-family replaces an existing single family home that was destroyed by fire. The site is located in the Village District is an area adjacent to the New Hampton School. This new home will continue to provide housing in an area of town that requires it.”*

Mrs. Erler agreed stating it was consistent with other structures in the neighborhood. Ms. Karnis said it was appropriate as there are single family and multi-family homes, especially given the proximity to NHS.

There is adequate area for safe and sanitary sewage disposal: The applicant writes *“there is town water and sewer available.”*

The board agreed this did not apply as the Village District supplies water and sewer to the dwellings.

The use will not adversely affect the adjacent area: The applicant writes *“no adverse effects are anticipated by the development.”*

Mrs. Erler said she was satisfied with the fact that Mr. Hiltz was willing to make the retaining wall mutually agreeable to the abutters and will provide adequate fencing for safety. Ms. Karnis agreed this should be a condition of any special exception approval adding to make the wall “consistent with the area”.

There will be no nuisance or hazard created: The applicant writes *“no*

nuisance or hazard will be created.”

Ms. Karnis said this 2-family would be consistent with the compact neighborhood. Mr. Orvis expressed his concern with the slope at the rear of the property, asking for some kind of safety barrier. The board agreed to place a condition on any approval that the applicant install a safety barrier consistent with the neighborhood, at the top of the steep slope.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The applicant writes *“Sewer, water and access from a town road will provide adequate facilities for the proposed use.”*

Ms. Karnis said she agreed with this statement. Mr. Orvis asked where snow would go and Mr. Hiltz said the driveways could be plowed straight forward.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The applicant writes *“the new home will have architectural elements consistent with the surrounding homes.”*

Mr. Hofling advised that this was addressed previously and found to be true.

The building, parking/or driveway area will not exceed 50% of the lot: The applicant writes *“the total lot area is 3,275 sq. ft. and the total building and parking areas is 1,573 sq. ft. which is 48% of the lot.”*

The board agreed that this calculation met the requirements.

Mrs. Erler made a motion, seconded by Mr. Hofling, to approve this Special Exception request with the conditions noted. Vote was unanimous.

Relative to the Special Exception request under Article VI, Section A.2
To increase the size of a dimensionally non-conforming structure but is part of a conforming use as the footprint of the previous existing home was approximately 848 sq. ft. and the footprint of the new home is 896 sq. ft.

The applicant had used the same responses for this Special Exception, as the last.

The specific site is an appropriate location for such use:
The board agreed.

There is adequate area for safe and sanitary sewage disposal:
The board agreed this was not applicable.

The use will not adversely affect the adjacent area:
The board agreed.

There will be no nuisance or hazard created:

The board agreed.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use:

The board agreed.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood:

The board agreed.

The building, parking/or driveway area will not exceed 50% of the lot:

The board agreed.

Mrs. Erler made a motion, seconded by Mr. Hofling, to approve this Special Exception request. Vote was unanimous.

Relative to the variance request under Article IV, Section F.3:

To relocate the house to the center of the lot changing the setbacks. As the side setback requirements are 15' the proposal increase this from 1.26' on the east side to 10.83', making it more conforming but making the west side 10.8' from the side property line, which requires a variance.

The variance will not be contrary to the public interest; the applicant states *“by relocating the footprint of the home to the center of the lot the maximum side setbacks will be obtained. This will increase the east side setback from .73' to 10.8’.”*

Mrs. Erler stated it was an improvement for one abutter and is not unlike similar properties in the area. Mr. Tierney said it improves a non-conforming situation. Mr. Orvis pointed out that nothing was heard from the abutter on the west side, where the house was moving closer to.

The spirit of the ordinance is observed; the applicant wrote *“The relocating of the footprint allows for the best possible setback on both sides of the property. This will allow for maximum separation as well as access to the east side of the structure which wasn't possible before without crossing the abutter's property.”*

The board agreed with this statement.

Substantial justice is done; the applicant wrote: *“The granting of this variance allows for the previous home that was destroyed by fire to be replaced in the best location on the lot. If this variance was not allowed the house would have to be rebuilt in the original location which would not allow separation from the property to the east or access to the entire east side of the house without crossing the abutter's property.”*

The board agreed this was an improvement to the area.

The values of surrounding properties are not diminished; the applicant

wrote *“the centering of the house on the lot allows for access to the new home for maintenance on the east side without crossing the abutting property and still leaves a 50’ separation to the existing home on the west side.”*

The board agreed this would be an improvement.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area; no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific application of that provision to the property because: The applicant writes *“the relocation of the house improves the application of the setback requirements in the ordinance.”*

Mrs. Erler pointed out that the Village District is currently a dense neighborhood and this lot is very small and improves the setbacks. Mr. Tierney said rebuilding the home on the same footprint would present a hardship to the eastern abutter. Ms. Karnis said centering the structure would bring consistency to side setbacks and allow space for neighbors on either side.

The proposed use is a reasonable one because; the applicant writes *“the proposed use maintains an existing use and allows for the reconstruction of the house destroyed by fire.”*

The board agreed.

If the paragraphs in 5(A) are not established what are the special conditions for the property that distinguishes it from other properties in the area, the property cannot reasonably be used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it; the applicant writes *“this property has had a home on it longer than there has been a zoning ordinance in the town of New Hampton. When the setback requirements for the Village District were established they did not consider this lot. The front and rear setbacks overlap and provide for no building area on the lot. The side setbacks would only allow for a house 20” wide to be built. Therefore, strict conformance to the ordinance would be impossible on this property and its unique characteristics were not taken into account in the enacting of the ordinance.”*

Mr. Tierney pointed out that the paragraphs in 5(A) are met but added that this variance provides a correction to the previous structure being .73 feet to a side property line and the property is very old and predates zoning.

Mrs. Erler made a motion, seconded by Ms. Karnis, to approve this Variance request. Vote was unanimous.

Relative to the Variance request under Article IV, Section F.8:
Provide for 4 new parking spaces as part of the reconstruction of the

existing house. The ordinance required 5 spaces, 2 for the 1st bedroom + ½ for each additional, requiring a total of five. The previously existing house had 3 bedrooms and 2 parking spaces.

The variance will not be contrary to the public interest; the applicant states *“there will be two spaces per dwelling unit which is what the existing house had.”*

Ms. Karnis advised that there is still adequate parking for what is proposed and Mrs. Erler said these spaces will be fully contained within the property. Mr. Tierney pointed out that the other parts of town, which are less congested, only require 2 parking spaces per dwelling.

The spirit of the ordinance is observed; the applicant wrote *“adequate parking will be provided. Two parking spaces per unit as a common criteria in most towns. Especially in dense areas like the Village District in New Hampton.”*

The board agreed with this statement.

Substantial justice is done; the applicant wrote: *“This is the maximum amount of parking that can be provided as off street parking on this lot due to the grades in the back.”*

Mrs. Erler stated it is in line with the rest of the area and Ms. Karnis said it is consistent with the parking for other houses on the road.

The values of surrounding properties are not diminished; the applicant wrote *“the proposed parking will be the same per unit and greater per bedroom than the existing house.”*

Ms. Karnis said this parking is actually an improvement and the board agreed.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area; no fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific application of that provision to the property because: The applicant writes *“the existing house had two parking spaces per unit and the proposed house will have the same.”*

Ms. Karnis said the lot has an extreme slope in the back so a substantial portion of the land cannot be used. She said it is consistent with the house next door, but not consistent with other properties in the neighborhood. The board agreed.

The proposed use is a reasonable one because; the applicant writes *“the proposed use maintains an existing use and allows for the reconstruction of the house destroyed by fire.”*

The board agreed.

Ms. Karnis made a motion, seconded by Mrs. Erler, to approve this Variance request. Vote was unanimous.

Mr. Hofling made a motion, seconded by Mrs. Erler, to include the condition that the applicant meet the requirements listed in the Fire Chief's letter dated 3/15/17. Vote was unanimous.

MINUTES

There were none.

CORRESPONDENCE

There was none.

ADJOURNMENT

Mr. Hofling made a motion, seconded by Mrs. Erler, to adjourn at 6:51 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose
Administrative Assistant

DRAFT